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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/857,585	05/16/1997	FUMIO ABE	WATK:040E	4360

7590 01/06/2004

PARKHURST WENDEL & BURR
SUITE 210
1421 PRINCE STREET
ALEXANDRIA, VA 22314

EXAMINER

TRAN, HIEN THI

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Advisory Action	Application No. 08/857,585	Applicant(s) ABE ET AL.	
	Examiner Hien Tran	Art Unit 1764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the same reasons set forth in the final office action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 3,5,6,12,14-16 and 18.
Claim(s) withdrawn from consideration: 19.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See attached sheets

Hien Tran

Hien Tran
Primary Examiner
Art Unit: 1764

- Continuation of 3. Applicant's reply ^{will} ~~has~~ overcome the following rejection(s): the double patenting rejection if the terminal disclaimer is proper. The terminal disclaimer has been received, however, has not been reviewed by the paralegal yet.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/24/03 have been fully considered but they are not persuasive.

Applicants argue that the Table on page 3 of the Declaration shows the need to control both the Si/Al molar ratio and the alkali content to be assured that one has a necessary BET minimum value at a high temperature, such as 1100 °C while the prior art does not show any motivation to maintain such controls. Such contention is not persuasive as the range set forth in the Table on page 3 of the Declaration is not commensurate in scope with the range set forth in the instant claims.

Applicants argue that the Si/Al ratio in Swaroop et al is less than the minimum value of the instant claim. Such contention is not persuasive as Swaroop et al discloses that the Si/Al ratio is no greater than 200 (col. 3, lines 28-37) which includes the portion of "not less than 40" of the instant claim.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien Tran whose telephone number is (571) 272-1454. The examiner can normally be reached on Tuesday-Friday from 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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Hien Tran

Hien Tran
Primary Examiner
Art Unit 1764